

July 21, 1970

CONGRESSIONAL RECORD — SENATE

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Inland refiners with licenses to exchange with East Coast refiners for domestic crude have seen the demand disappear in the past 3 weeks. Some inland refiners are protected by a 1-year contract.

Others which hadn't yet made a deal for the second half are finding that spot tanker rates have priced foreign oil out of the U.S. market temporarily. One importer last week calculated the delivered cost of Persian Gulf oil to the U.S. East Coast at \$4.50/bbl—\$1.25 for the oil, and \$3.25 for freight. Another estimate placed the cost at \$4 to \$4.25.

A third major importer calculated delivered costs of Arabian light (34°-gravity) at \$4.985, with a posted price of \$1.80, freight of \$3.08, and duty of 10.5¢, but noted the posting is shaded by as much as 55¢/bbl. A comparable figure for Kuwait 31°-gravity crude is \$4.825, including \$1.59/bbl posting, \$3.13 freight, and 10.5¢ duty. This posting is shaded by up to 44¢/bbl.

That compares with \$3.75/bbl for Gulf Coast oil delivered to the East Coast.

One major importer last week estimated the value of an import ticket had dropped from \$1.40/bbl—the price it paid for first-half exchanges—to 30¢/bbl.

A second importer placed the ticket value at zero. This refiner is turning to the Gulf Coast for oil needed beyond the foreign supply covered by its own import quota.

If the situation continues, inland refiners will find themselves in a bind, both for crude oil and money. In a normal tanker market, the inland refiner has been able to make an exchange deal within a month or two, at a profit of \$1.25 to \$1.50/bbl.

If there was some delay, he could take the ticket to the bank and obtain a loan, with the import right as collateral. It was both a source of crude and financing, usually providing the margin of profit for a small corporation. Now both are jeopardized.

Major integrated companies who usually take the tickets now need a part of the domestic supply they normally exchange to replace temporarily expensive foreign oil.

Although U.S. crude stocks are said to be ample or even high, the situation has turned quickly so that buyers are finding little available.

Pipelines full. There will be a mounting pressure for higher August allowables in Louisiana and Texas.

But inland refiners fear this may not solve their supply problem.

Pipeline space from the Southwest to the Midwest, they say, is at a premium. Some additional crude could be moved via Capline to the Chicago area, one refiner told the Journal, but additional Texas oil may have to move via water into the Midwest.

An Oklahoma crude buyer told the Journal that the tight pipeline situation has always been around. But recent actions in the Middle East and on Canadian imports have emphasized the situation. He said the only pipeline capacity available that he knew of was from the Rockies going east.

Capline, he said, has the line size but not the pumping and "it will take time to take care of this problem."

However, some help could come from Texas, if the usual comments are any indication. For one, Mobil Pipe Line can handle 10,000 b/d additional now, but tomorrow it may be choked full.

Mid-Valley Pipeline, which has a 240,000-b/d line running from Longview to Lima, Ohio, is filled to the last drop. The five shippers using the line have committed more to the line than it can move.

However, Mid-Valley has a stop-gap expansion in the works, but is holding off on any big projects to see if the capacity-crush will last. "We ran for years at less than full capacity," a spokesman said.

Canadian imports boost? The department

of Interior is already hearing mounting demands for an increase in the 395,000-b/d ceiling for imports from Canada east of the Rockies.

Refiners explain that pipeline capacity is available in the Interprovincial-Lakehead system to boost deliveries into the Great Lakes area.

Moves to loosen Canadian quotas will require action by the President. The oil import appeals board has a small kitty available for hardship cases. But this volume won't be enough to satisfy demand caused by any significant diversion of Southwest and Gulf Coast crude to the East Coast.

#### A SINCERE EXPRESSION OF PATRIOTISM

Mr. MAGNUSON. Mr. President, I recently received a letter from my principal appointment to the U.S. Military Academy in 1948, Henry Purcell III. Lieutenant Colonel Purcell in his letter dated July 4, 1970, indicated that he was on his way back to Vietnam to command an infantry battalion in combat.

Mr. President, rarely have I read a more sincere expression of patriotism than this letter. In order to share Colonel Purcell's letter with the Senate, I ask unanimous consent that it be inserted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TAMPA, FLA., July 4, 1970.

Hon. WARREN G. MAGNUSON,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR MAGNUSON: Twenty-two years ago you gave me the greatest opportunity of my life, by assigning me a principal appointment as a cadet candidate to the United States Military Academy.

Since then I have attempted in my work to repay you and my country for that chance to become deeply involved in the life and work of our nation. I have been fortunate. Since my graduation from West Point in 1953, I have been thoroughly schooled in military matters, to include a year at the US Army Command and General Staff College at Fort Leavenworth. I have become fluent in the Turkish language and interpreted for the Vice President, then Mr. Lyndon B. Johnson, and for the former US Ambassador to Turkey, Mr. Raymond Hare. Through our association as graduate students at Princeton University, I am on close terms with the only Arab citizen of Israel with a degree as Doctor of Philosophy and who is a Professor of Politics at the University of Tel Aviv. As advisor to a Vietnamese Infantry Regiment, I assisted in bringing about changes resulting in greater accomplishment at less expense in terms of time, material, and human lives. My most recent assignment allowed me to participate in the formulation of United States strategy for the Middle East.

I am now on my way back to Vietnam to command an Infantry Battalion in combat. I believe I can achieve the mission and also save lives. I leave behind a wonderful family who are not anxious to see me return to combat. Nevertheless they understand why I must seek out and not avoid this obligation; they respect my decision to volunteer.

Senator Magnuson, I wanted you to know that your 1948 West Point principal appointee, without reference to various positions on the war being debated in the United States Senate, recognizes his responsibility to serve his country, and is doing so willingly and without reservation.

Very respectfully,

HENRY PURCELL III.

#### STRATEGIC WITHDRAWAL FROM VIETNAM

Mr. FANNIN. Mr. President, the American people are proud of the military men who have served our country so well. Most Americans feel a debt of gratitude to them.

Members of Congress participate in this proud record by their recommendations of fine outstanding men, carefully chosen from among their constituents, to enter our military academies.

Yet, some of the proposals which have been before Congress indicate a lack of confidence in the system. They tend to involve Congress in the day-to-day details and particularly the timetable of a strategic withdrawal from Southeast Asia by which the President hopes to hold to a bare minimum the number of American casualties that will be involved before all American troops are withdrawn.

Mr. President, Mr. George M. Hill, an attorney in Phoenix, Ariz., has ably expressed this concern in a letter to me. I ask unanimous consent to publish in the RECORD an excerpt of Mr. Hill's letter:

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I think it must be acknowledged that the President and his military advisers are now engaged in a strategic withdrawal. The objectives of that withdrawal are to return to the United States at the earliest possible time the greatest number of soldiers we now have in Vietnam with the least number of casualties.

In carrying on that strategic withdrawal the President has available to him all of those officers in the Army, the Navy and the Air Force whose education and training throughout their active lives has been devoted to the study and practice of warfare, including strategic withdrawals.

Congress, in its wisdom, in providing for the military security and welfare of the United States, created our military institution at West Point. It also created our naval academy at Annapolis. It did at a much later date, following the consummation of World War II, provide for the establishment of the Air Force Academy in Colorado. The wisdom of Congress in establishing these military institutions has been proven in every conflict, large and small, in which our country has been engaged militarily.

All members of Congress have some familiarity with the capabilities and the intelligence of those young men who are accepted by the military schools because the members of Congress have some part in their approval and appointment.

While the Cooper Church Amendment purports to be just simply an avowal of cooperation with the President, who has set a timetable with relation to our withdrawal from Cambodia, it is in truth and in fact a condemnation of the right of the President to rely on the products of those military schools which Congress has provided and maintained for the purpose of making available to the President the most highly-trained and capable military men in the world.

While the purported purpose of the Cooper Church Amendment is to just simply provide a timetable with relation to the Cambodian withdrawal to which the President must adhere, it is in reality a direct attack upon our whole military system.

Surely no one can question that the President, with relation to Cambodia, was acting after he had at least received the benefit of

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the advice and recommendations of our senior military officers.

## CONSTITUTIONALITY OF THE WAR IN VIETNAM

Mr. CRANSTON. Mr. President, in at least two recent court cases, *Orlando v. Laird*, 70 C 745 (E.D.N.Y. 1970) and *Berk v. Laird*, No. 900 (2d Cir. 1970), where servicemen challenged the right of the Army to send them to fight, and perhaps die, in a war that they believe to be unconstitutional, the Nixon administration has advanced a disingenuous argument that Senators should be aware of.

The administration argues that Congress ratified the Vietnam war by appropriating the funds which were used to conduct that war. In addition, the administration argues that the Congress ratified the war by passing two Selective Service Acts under which young men were drafted and sent to Vietnam.

This argument in effect stands the Constitution on its head. The Constitution creates a system of government where it is the function of Congress to authorize executive action, except where the Constitution reserves the power to act to the executive branch. Congress is also empowered to appropriate money for all governmental action, whether it be initiated by Congress or the Executive.

But the Nixon administration's constitutional theory suggests that the executive branch may take any action that it wishes, subject only to a congressional veto in the appropriation process. The dangers inherent in this radical theory can be illustrated by the Cambodian invasion.

President Nixon invaded Cambodia, relying on his authority as Commander in Chief, without congressional authorization and in disregard of the commitments resolution passed by the Senate last year.

The lesson to be drawn from this experience is that President Nixon's constitutional theory overturns the historic balance of power between Congress and the Executive. The most ironic aspect of the administration's argument in the two cases I mentioned is that the precedent they cite to support their argument, upon careful reading, refutes it. The Government cites *Ex Parte Endo*, 323 U.S. 283, to support their theory of implied ratification by appropriation, but in that case the Supreme Court rejected the argument that Congress ratified the Executive's detention of admittedly loyal Japanese-Americans in camps by appropriating funds for such purposes. The Court avoided a constitutional issue by interpreting the detention law as not authorizing the detention of admittedly loyal Americans.

To justify the Executive's action in continuing the Vietnam war, a court would have to find that the language in the appropriations or Selective Service Acts cited was equivalent to a declaration of war. This finding would be difficult in light of the Court's admonition in *Ex Parte Endo* that to be a valid ratification, "the appropriation must plainly show a purpose to bestow the precise authority which is claimed"—*Ex Parte Endo*, 323 U.S. at 303, note 24.

Given the current debate over this country's Vietnam policy, one can hardly say that Congress has granted precise authority to wage war in Indochina. Whenever appropriations for the war come up for a vote, supporters claim that we cannot abandon our boys who are fighting there. Many Congressmen vote for the appropriations for that reason. Other Congressmen vote for the military appropriations bill so that our forces can be withdrawn safely from Vietnam at the earliest possible date.

To say that a Congressman ratifies the continuation and expansion of the Vietnam war when he votes for appropriations to protect American servicemen as they are withdrawn is a cruel deceit. It makes as much sense to argue that the Department of the Interior could grant leases to drill in the Santa Barbara Channel in the absence of explicit congressional authorization and relying only on congressional passage of the general appropriations for the Department of the Interior's ongoing activities.

Mr. President, I intend to make a more detailed statement on the legal issues involved in the Indochinese war in the near future, but I wanted to raise these questions now so that the Senate can ponder them during the forthcoming debate on the military authorization bill.

## DISTRICT OF COLUMBIA CRIME

Mr. MATHIAS. Mr. President, I wish to remind Congress of our responsibility in facing and dealing with the serious crime problem in the District of Columbia, since Congress has chosen to retain virtually exclusive governmental authority within the District.

To this end, I ask unanimous consent to have printed in the RECORD a list of crimes committed within the District yesterday as reported by the Washington Post. Whether the list grows longer or shorter depends on Congress.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

## THREE ROB HOTEL IN DOWNTOWN DISTRICT OF COLUMBIA

A downtown Washington hotel was held up early yesterday by three armed men who also robbed two employees before tying them up and escaping with an undetermined amount of money, police said.

George J. Olivier, front desk clerk at the Claridge Hotel, told police the gunmen entered the hotel at 820 Connecticut Ave. NW shortly after 3 a.m. He said one of them placed a revolver at his back, warned, "Don't turn around," and took his money and watch.

Another gunman robbed the bell boy, Anthony A. Roman, of his watch and wallet and then helped his companions empty the cash drawer, according to police.

Olivier said the trio forced him at gunpoint to lead them to the hotel safe in the basement, ordered him to open it and removed the money and checks.

After handcuffing Olivier and Roman and tying them to each other, police said, the armed men ran out of the hotel and escaped.

In other serious crimes reported by area police up to 6 p.m. yesterday:

## ASSAULTED

Kenneth E. Sullivan, of Washington, was treated at Washington Hospital Center for a gunshot wound in the upper right arm that he suffered about 6:55 p.m. Sunday when a

man in a blue car drove past him at 14th Street and Park Road NW and fired one shot at him.

Evelyne Clark, of Washington, was treated at Washington Hospital Center and released after an unseen gunman shot her in the right thigh as she was about to enter an apartment building shortly after midnight Sunday.

Thomas Price, of 1352 Wyllie St. NE, was treated at Rogers Memorial Hospital after he was struck in the face during a fight with a man wielding a lead pipe in his garage at about 7:50 p.m. Sunday.

Belinda Baker, of Washington, was treated at Hadley Hospital for head injuries she suffered when she intervened in a fight in the park in the 200 block of Wayne Place SE. Miss Baker told police a woman hit her with a stick about 8:30 p.m. when she tried to break up a fight.

Zebulon Shaw, of Washington, was treated at George Washington University Hospital for injuries she suffered about 1 a.m. when she was attacked by a man as she was leaving a friend's house at 5th and E Streets NW. Her assailant hit her in the head and body and fled on foot.

## ROBBED

Spencer Carl Mammett, of Washington, a driver for Dream Maid Ice Cream Co., was held up about 9:15 Sunday by a man wielding a revolver who approached him while he was selling at the corner of 32d Street and Ely Place SE. Waving his gun, the man said, "This is a stickup or whatever you want to call it, so just give me the money." After taking a cardboard box containing a large amount of cash from the vendor, the gunman ran towards Minnesota Avenue SE.

Albert Richard Webster, of Washington, was beaten and robbed about 11:10 p.m. Sunday by two men who confronted him in the 4300 block of Deane Avenue NE and asked for change for a dollar bill. After Webster handed them the change, they demanded, "Give us the dollar back." One of them then began hitting Webster while the other man took his wallet.

Kenneth Lingelbach, of Jutland, N.J., was held up about 12:15 by two men who approached him in the 2100 block of New Hampshire Avenue NW. One of them drew a knife, demanded money and held Lingelbach at bay while his companion took the money from the victim's pockets.

Fariborz Nazarian, of Washington, was beaten and robbed about 9:15 Sunday by three youths who surrounded him at 4th and Farragut Streets NW while he was selling ice cream. One of them held Nazarian while the others took the money from his pockets and fled east along Farragut Street.

Esso Service Station, 4650 South Capitol St. SE, was held up Sunday by a young man armed with a gun who drove into the station in a white car and told the attendant, "Give me the money and the gun that you carry." When the attendant replied he had no gun, the driver said, "Just give me the change carrier and the money." After taking a large amount of cash, the gunman drove from the station. The car was later recovered in the 4700 block of 1st Street SW.

Bernice Lorene Bookman, of Washington was held up while she was working in the Bolling Air Force mess hall, Portland Street SE, by three youths. About 9:30 p.m. the trio approached her and one of them, pointing a handgun at her, demanded, "Lady, I want your purse." After grabbing her pocketbook, the youths fled.

James Fletcher, of Washington, was treated at Rogers Memorial Hospital for injuries he suffered during a robbery about 4 a.m. Sunday. Two young men attacked him from behind on 10th Street NE, knocked him to the ground and kicked him in the face. They took his wallet and papers and fled on foot.

William Barry, of Washington, was beaten and robbed about 11:05 p.m. Sunday by a